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ABSTRACT

This paper presents a history of California's offices of the Superintendent of Public Instruction, State Board of Education, and Secretary of Education by tracing the creation and development of these respective authorities. It discusses the origins of these offices, from the drafting of California's first constitution through the present day, and describes how current statutes do not clearly define these offices' functional responsibilities, creating a lack of clarity that has led to conflict. It opens with the creation of the position of the Superintendent of Public Instruction in 1849 and debates on whether this should be an elected or appointed position. Some of the highlights covered in the history include the constitutional basis for the State Board of Education, the creation of the position of the Secretary of Child Development and Education, and interpretation of the state board's authority. The report also examines governance models used in other states and proposes alternative governance structures. It describes the move toward centralization, the selection of the state board of education, and the appointment of the Chief State School Officer. The paper offers options for restructuring the governance and administration of K-12 education. Four appendices provide ballot arguments for and against various constitutional amendments. (Contains 25 references.) (RJM)

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A Double-Headed System:
A History of K-12 Governance in California and Options for Restructuring

By Murray J. Haberman

In Response to a Request by Senator Dede Alpert

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Introduction

Since California's statehood 150 years ago, the authority and responsibilities of the Superintendent of Public Instruction and those of the State Board of Education have been challenged by governors, legislative leaders, and by the educational leaders themselves. These challenges have led to various interpretations by Attorneys General, Legislative Counsels, and the Courts regarding how the State's Constitution and various statutes define the role and function of the Superintendent and the State Board, and how each of these authorities is responsible for the governance of the state's K-12 education system.

This paper presents a history of the Superintendent of Public Instruction, the State Board of Education, and the recently established Secretary of Education, by tracing the creation and development of these respective authorities – from the drafting of California's first Constitution through the present day. It discusses how current statutes do not clearly define their functional responsibilities, and how this lack of clarity has caused conflict. This paper also examines governance models used in other states. It concludes with a series of options that the Legislature and Governor may wish to consider for restructuring the governance and administration of K-12 education in California.

A History of Major Events Affecting K-12 Governance in California

1849 – The Creation of the Position of the Superintendent of Public Instruction

The first debate in California over K-12 governance focused on whether the Superintendent of Public Instruction should be popularly "elected" or "appointed" by the Legislature.[1] This question of an elected or appointed Superintendent has been a recurring theme in discussions of education governance for the last century and a half. The issue was initially resolved when California's first Constitution was enacted in 1849. It stated that "[t]he legislature shall provide for the election, by the people, of a superintendent of public instruction, who shall hold his office for three years . . ."[2] Although provisions relating to the term of office and manner of election have been amended from time to time since the first constitution,[3] the position of Superintendent has remained an elective constitutional office.[4]

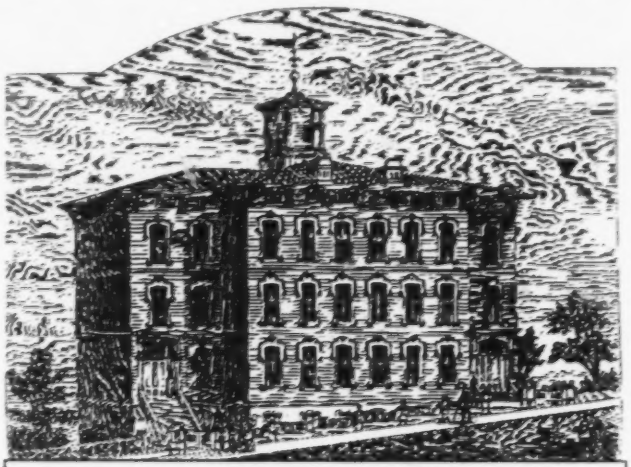
The First School House in San Francisco
John Swett, *History of the Public School System*, 1876.

The framers of California's first Constitution recognized the importance of education. By creating an "elected" Superintendent, they believed that the stature of Superintendent would

be commensurate with the incumbent's responsibility for organizing and providing funds to the State's education system. Initially, the Superintendent was statutorily required to: organize school districts; assist in the election of school trustees; build schoolhouses; and secure teachers. As the State school system evolved, the Legislature broadened the Superintendent's responsibilities to include: supervising the schools, several educational agencies and state asylums and orphanages; preparing forms for school records; gathering information and statistics on public education; apportioning school funds; making biennial reports to the Governor; and publishing the school laws. In addition, the Superintendent, as executive officer to the State Board of Education, was responsible for carrying out the policies of the Board regarding textbooks, teacher credentialing, and the investigation of teacher-training institutions.[5]

1852 - Creation of the State Board of Education

The State Board of Education was not mentioned in the State's first Constitution. Instead, the first legislation mentioning the State Board of Education was adopted by the legislature in 1852. Those statutes called for the organization of school districts to be governed by three trustees—the Governor, the Superintendent of Public Instruction, and the Surveyor General—called the Board of Education. The Surveyor General was included because the law originally proposed to entrust the board with the sale of lands made available for the support of schools by the federal government.[6] The Board was never given this latter responsibility, and it remained without such powers or duties. However, it was given the authority to apportion money to the schools.[7]



Girls' High and Normal School
John Swett, *History of the Public School System*, 1876.

In 1864, the membership on the Board was changed to include the superintendents of schools from major counties. In addition, the Surveyor General was removed as a member of the Board. That same year, the State Board of Education was given authority to select textbooks, to require a uniform course of studies, and to make rules and regulations for the schools.[8]

Six years later, in 1870, legislation was enacted that again changed the composition of the Board to include the Governor, the Superintendent of Public Instruction, the Principal of the State Normal School[9] (a teacher training institute), the Superintendent of Public Schools of the City and County of San Francisco, the Superintendent of Common Schools of the counties of Sacramento, Santa Clara, Alameda, Sonoma and San Joaquin, and two professional teachers, who were nominated by the Superintendent of Public Instruction, and elected by and with the consent of the Board.[10]

1879 - Constitutional Reform and the Diminishing Role of the State Board of Education

In 1879, a new Constitutional Convention was called, and California's second Constitution was adopted later that year. The new Constitution returned to the county boards of education the responsibility for selecting textbooks, certifying teachers, prescribing courses of study, and making rules and regulations for the schools. This shift took place in large part because many delegates to the convention believed that the State Board would succumb to pressures of graft when they selected textbooks.[11]

Further, a review of the proceedings of the Constitutional Convention of 1878-79 suggests that the delegates were worried about granting authority to a professional board over whom the public had little control. Over the course of the Constitutional Convention, arguments in favor of maintaining an elected State Superintendent with administrative responsibilities were strong, and the delegates voted to maintain the elected office of the Superintendent.[12] [13]

The delegates to the Constitutional Convention of California of 1879 wanted to continue to provide the people of California with a highly qualified and popularly elected Constitutional officer in charge of the school system. Yet they also wanted to decentralize most matters that related to the schools. To accomplish this task, many of the duties previously undertaken by the State Board were transferred to county superintendents or county boards of supervisors.[14]

Although the State Board of Education was stripped of most of its statutory powers, its existence continued in amended Code. However, its membership was reduced to only the Governor, the Superintendent of Public Instruction, and the principal of the State Normal School. As new Normal Schools were established, the principals of those schools became Board members.[15]

1884 - Establishing a Constitutional Basis for the State Board of Education

In 1884, the State Board of Education was written into the Constitution through amendment. With this amendment, the Board was assigned the primary responsibility of selecting and providing textbooks to the state's public schools. This was done in large part because the system of each county adopting its own textbooks proved to be inefficient and expensive, and was disliked by both teachers and the public.[16] The amendment also required that the Governor, Superintendent, and principals of the Normal Schools serve as ex-officio members by virtue of their positions. A decade later in 1894, the President of the University of California, who was a professor of pedagogy, also became an ex-officio member of the Board.[17]

1912 - Birth of the Modern State Board of Education

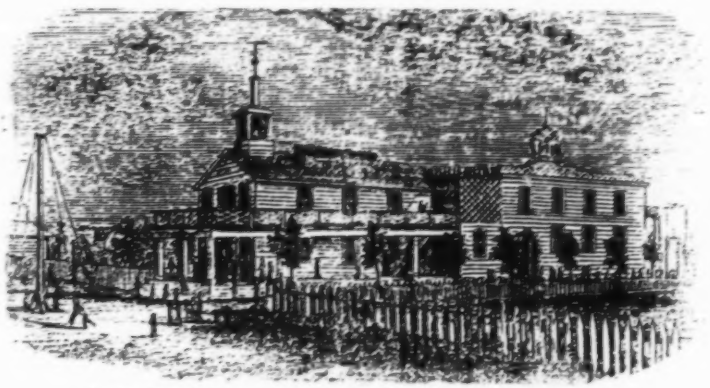
Until 1912, the State Board of Education practically served as an advisory council to the Superintendent for Public Instruction.[18] However, in that year, a longstanding controversy over who had the authority to select textbooks formed the basis for the modern State Board of Education. The Superintendent of Public Instruction and the State Board of Education each believed they had the authority for selecting textbooks for the State's public school students. To reconcile the issue, during the election of 1912, voters were presented with a constitutional amendment titled *Free School Text Books*. If adopted, this amendment would

provide that textbooks "shall be furnished and distributed by the state free of cost or any charge whatever, to all children." The amendment also called for a redesign in the selection process for State Board of Education members. It urged the Legislature to prescribe a new system for the Board's "appointment" or "election."[19] At the time, many educators favored a board composed entirely of laymen, rather than a board of professional educators and officeholders.[20]

The constitutional provision that created the modern State Board of Education received almost no mention in the 1912 ballot pamphlet. The proponents included two brief paragraphs indicating that the people should not be worried about this change. The pamphlet arguments stated that the proposed amendment provided for a reorganization of the State Board of Education by the Legislature—with the approval of the Governor. It went on to say that since the power and corrective action for initiative, referendum and recall was in the hands of the people, "no fear need exist that the legislature, the governor and the reorganized board of education would not perform their full and comprehensive duties in their respective spheres of action." There was no mention of the proposed reorganization of the board. Instead, nearly every word of the ballot pamphlet arguments was devoted to the subject of free textbooks.[21] (For ballot arguments see Appendix A1.)

The amendment passed,[22] and the Legislature of 1913 gave the Governor the authority to appoint seven members to the State Board, with the legislative intent that no Board member would be actively engaged in educational work. Members of this new Board had terms the same length as the Governor's.[23] The legislature prescribed that the Superintendent of Public Instruction would be the Secretary of the Board, and would be responsible for all correspondence and record keeping, and that the State Board would determine questions of policy.[24] The Superintendent, under the direction of the Board, would enforce those policies. Specifically, the Superintendent was charged with carrying out the "general rules and regulations as the State Board of Education may adopt, the work of all assistant superintendents of public instruction, and such other appointees and employees of the Board as may be provided by law."[25]

With the Board controlled by the Governor, the Legislature considered the issue of whether members of the State Board of Education should be elected or appointed. Then Superintendent of Public Instruction Edward Hyatt termed the debate a "vexed question," and suggested that the current system was designed to "consist of a democratic superintendent and a bureaucratic board, each to be a check and a safeguard upon the other."[26]



California State Library, California Collection. Circa 1856.

In addition to defining the selection process of Board members, and the role of the Superintendent, the constitutional amendment of 1912 and the legislation of 1913 caused a new attitude toward the agency responsible for public education in Sacramento. Previously, the Superintendent had dominated the agency, and under his tutelage, the unofficial label of Department of Public Instruction was most often used. From 1913 on, however, the State Board of Education took on a greater level of importance, and the agency took on the label of the State Department of Education.[27]

It was recognized at the time that the juxtaposition of roles between the Board and Superintendent could cause potential conflict. After all, the Superintendent was still responsible to the people who elected him. Thus, it was possible that the policy-making board would not have its policies carried out by an elected official who was accountable to the people.

1919 - Emergence of a "Two-Headed" System of Governance

In 1919, a State Department of Education publication titled the "Blue Bulletin" foresaw the potential for conflict between the Superintendent and the State Board. The Bulletin noted that although the two authorities had succeeded in working together, the fact remained that there were effectively two distinct state departments, and that it was just a matter of time before these departments would find themselves in conflict, since both had administrative responsibilities. It predicted that such conflict would be disastrous to educational leadership in the state.[28]

The Legislature was aware of this problem, and in 1919 it asked for a legislative investigation to determine the needs and support for public schools and other educational institutions in the state.[29] In 1920, the Legislature issued its *Report of the Special Legislative Committee on Education*. This study was commonly referred to as the "Jones Report," because of the Education Committee chairmanship of Senator Herbert C. Jones.

The report identified the "double-headed" governance system as a primary problem of the state education system. It noted that the problem was a product of the 1912 constitutional amendment, and subsequent 1913 enabling legislation, which provided for a lay State Board of Education to succeed the previous ex-officio professional Board.[30] The report noted that so long as the then Superintendent of Public Instruction remained in office, and so long as the State Board of Education continued to pursue its present policy direction, harmonious relations between the two authorities *could* continue. However, it also noted that the situation was fraught with danger, and that sooner or later this type of arrangement was destined to cause trouble.[31]

The report noted "that part of the state educational organization represented by the State Board of Education is clearly responsible to the Governor and Legislature for its acts, while the part represented by the Superintendent of Public Instruction remains independent of both the State Board of Education and Governor, and largely independent of the Legislature as well, and may work with the State Board of Education or against it, according to the character of the official elected to the office of Superintendent."[32]

It was clear that an antagonistic Superintendent might at some time raise the constitutional question as to the right of the State Board of Education to do anything other than set broad

policy. The Jones Report noted that "Undoubtedly, then, the present California educational organization must be regarded as temporary and transitional, and dangerous for the future, and it should be superseded at the earliest opportunity by a more rational form of state educational organization."[33]

The authors of the report proposed a constitutional amendment that would abolish electing a Superintendent of Public Instruction, and recommended that the State Board of Education should appoint a Commissioner of Education to act as chief executive officer of the Board. The authors also recommended that the educational governance functions being exercised elsewhere, primarily at the county level, should be reassigned over time to a new State Department of Education.[34]

1921 - Birth of the State Department of Education

Acting on some of the recommendations of the Jones Report, the Legislature, during its 1921 session, began the work of forming a new State Department of Education. Legislation enacted in May 1921 created a Department under the control of a Director of Education, and the Superintendent of Public Instruction was to be ex-officio Director. The law that established the new State Department of Education was consistent with recommendations contained in the Jones Report. However, other sections of the law perpetuated the conflicting organizational features to which the report had objected – namely the continuation of an elected Superintendent and an appointed State Board. Each entity maintained most of its previous responsibilities.[35]

In spite of the perpetuation of this "double-headed" governance system, the 1921 legislation did have a major effect on the administration of educational matters. A new Department of Education in Sacramento was created that centralized many of the state's education activities. Specifically, the Department became responsible for: (1) developing the curriculum of both elementary and secondary schools; (2) publishing the state series of elementary school textbooks; (3) preparing an official list of approved high school textbooks; and (4) administering and influencing the various teachers colleges throughout the state.[36]

1923 - Governance Controversy Hits K-12 Education Again

Although the 1921 legislation contained many reform measures, it failed to adequately address the "double-headed" governance problem. A major controversy between the Superintendent of Public Instruction and the State Board of Education took place in 1923. In that year, Will C. Wood began his second term of office as Superintendent of Public Instruction, while Friend W. Richardson began his term as Governor. Richardson was a conservative, and his attitude toward education was expressed in his 1923 budget message. In that message he wrote ". . . extravagance in educational matters has run riot during the past few years, and politicians in the guise of educators have squandered the people's money with a lavish hand and have denounced advocates of thrift as enemies of education."[37] His policies were met with immediate criticism from various educational associations; however, various taxpayer associations endorsed his opinions and policies.[38]

The confrontational situation foreseen by the Jones Report became a reality in 1924 when a majority of the State Board of Education, appointed by Richardson, sided with the Governor

in opposition to the Superintendent of Public Instruction, and refused to confirm the Superintendent's appointments of the presidents of the San Jose and San Francisco State Teachers Colleges. The denial of these appointments caused several years of conflict between the Board and Superintendent regarding the authority power held by each entity.

In his biennial report of 1927, Superintendent Wood recommended that legislation should be adopted to reorganize the present "double-headed" system of educational governance. He asked that laws be passed to clearly define the powers of the State Board of Education (which he argued should be purely legislative and regulatory) and the powers of the Superintendent of Public Instruction (which he argued should be executive and supervisory).[39]

The "Russ" Public School from Douglas Gunn's
Picturesque San Diego with Historical Descriptive Notes, 1887.

In response to Wood's recommendation, Senator H.C. Jones introduced a bill. That bill proposed reorganizing the State Board of Education to include members who would be appointed to ten-year terms; and a Board appointed Director of Education, who would take over the duties, powers, and responsibilities of the Superintendent of Public Instruction. The bill was approved overwhelmingly by the Legislature, but the latter portion of the bill (elimination of the Superintendent) required a Constitutional amendment. Such an amendment was put before the people in 1928, but it failed.[40] (For ballot arguments see Appendix A2.)

In spite of the failure at the ballot box to eliminate the elected Superintendent, the Legislature did enact several reforms: (1) a new State Board of Education of ten members, appointed by the Governor with Senate approval, was created; (2) the three commissionerships established in 1913 were abolished; (3) the Board was given power to establish upon recommendation of the Superintendent, such divisions in the State Department of Education as appeared advisable for the efficient transaction of the business; and (4) the chiefs of those divisions were to be appointed by the Board, on nomination of the Superintendent, at salaries fixed by the Board, subject to the approval of the State Board of Control.[41]

1929 - Birth of the "Education Code"

The Legislature continued its reform efforts into the1929 session when it enacted a separate School Code. Section 2.1321 of that School Code provided: "The state department of education shall be administered through: (1) the State Board of Education which shall be the governing and policy determining body of the department; and (2) the Director of Education[42] in whom all executive and administrative functions of the department are vested and who is the executive officer of the State Board of Education."[43] The Legislature's effort

at reform worked, at least temporarily, as there was little discord between the Superintendent and the State Board from 1930 through most of the Second World War.[44]

1943 - First Attorney General Opinion on the Roles of the Superintendent and State Board of Education

Although there was relative calm in the administration of K-12 education in California for roughly a decade and a half, the lingering problem of the double-headed governance system was re-ignited in 1943. In that year, the State Board requested an Attorney General's opinion regarding its legal position compared to that of the State Department of Education. The Attorney General reviewed various sections of the State Constitution, School Code, and Political Code and acknowledged that the statutes were contradictory and ambiguous.[45] The Attorney General refused to address conflicts that might arise between the Board and Superintendent in the future. He did suggest that the ambiguous language should be called to the attention of the Legislature so that it might clarify the code sections relative to the respective powers, duties and functions of the State Board of Education, the Superintendent of Public Instruction and the State Department of Education. The Legislature took no action that year.[46]

1944 - The Mills and Strayer Reports

In June 1944, a special legislative session was called to consider education bills. During that session, the Legislature appropriated funds for two studies of the administration, organization, and financial support of the public school system.[47] One study, the "Mills Report," emphasized the need to clarify the roles and responsibilities of those charged with governing K-12 education in California.[48] Based on its recommendations, and with the support of the Superintendent, the Department of Education was substantially reorganized. The second study, the "Strayer Report," reached similar conclusions to those outlined by Mills. It called for the professionalization of the office of the State Superintendent of Public Instruction, and recommended a Constitutional Amendment that would provide for the selection of the Superintendent by a lay board rather than by popular vote.[49] This latter recommendation was not acted upon.

California State Library, California Collection. San Diego Normal School.

1954 - Second Attorney General Opinion Regarding the Roles of the Superintendent and State Board of Education

In 1954, the Superintendent asked the Attorney General whether the Board could set different admission standards for the then 10 state colleges, and delegate to the Superintendent authority to modify those standards.[50] The Attorney General advised the Board that it had the authority to set separate standards, and that the Superintendent must act within the standards set by the Board.

The Attorney General explained that the Superintendent had the duty to see that standards set by the state board were carried into effect within a framework set by the board. The Attorney General opined that the Superintendent, as an administrative officer, had the power to apply the board's rules: "By such delegation the director is vested with ministerial and administrative functions which are to be exercised in obedience to and in conformity with the definite rules, guidelines and standards that are established by the Board."[51] In spite of his opinion, it remained unclear exactly what powers the two authorities had.

1955 - The Hardesty Report and Other Reform Efforts

In the ensuing years, proposals were made from time to time to change the relationship between the State Board of Education and the Superintendent of Public Instruction. For example, in 1955, the Hardesty Report of the California Committee on Public School Administration proposed that the Superintendent be appointed by the Board, which would be composed of nine members.[52] In addition, in 1958, Proposition 13 was placed on the ballot. That proposition would have amended the State Constitution to provide for an appointed Superintendent, but the voters again soundly defeated the measure.[53] (For ballot arguments, see Appendix A3.)

Unidentified Schoolhouse, Circa 1888.
California State Library, California Collection

In 1959, then Superintendent Roy E. Simpson proposed that the Board should appoint the Superintendent, and that the Board should have the power to determine the term of office and salary of the Superintendent. He also recommended an 11-member Board, appointed by the Governor, each member requiring Senate confirmation. However, his recommendation was not acted upon.[54]

1963 - Third Attorney General Opinion on the Roles of the Superintendent and State Board of Education

The next major conflict between the Superintendent of Public Instruction and the State Board of Education occurred in 1963. At that time, the Board was confronted by then Superintendent of Public Instruction Max Rafferty who refused to convey the Board's opposition to a piece of Legislation known as the "Winton Bill"—a measure that partially circumscribed the Board's powers with respect to textbooks. Rafferty requested an opinion from the Attorney General by asking three questions:

- May the Superintendent refuse to execute an order of the Board to perform an act which is contrary to his beliefs?
- What remedy does the Board have in the event the Superintendent fails or refuses to execute an order?
- If the Board and the Superintendent issue contrary orders to an officer or employee of the Department, which is that officer or employee bound to follow?

Deputy Attorney General Richard L. Mayers prepared the opinion, and chose in large part to answer the questions broadly. His opinion stated:

- The Board may require the Superintendent to make known to the Legislature its positions on legislation, and the Superintendent may not refuse to execute this order solely because the order may be contrary to his own personal beliefs and wishes.
- In the absence of a Board rule or directive, the manner in which a Board resolution is to be executed is an administrative matter properly left to the Superintendent; he might make the Board's position known personally or through a subordinate employee.
- The law does not provide for the removal of the Superintendent for failure to obey lawful orders of the Board other than by recall. The Superintendent is not subject to impeachment.
- Since the particular situation did not involve a refusal to carry out a Board order, that question is only hypothetical and, thus, the Attorney General deemed it appropriate to defer a reply.[55]

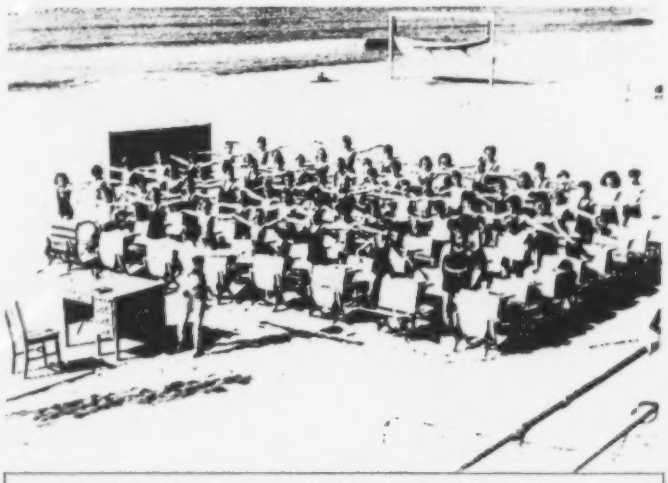
The Attorney General closed his "Rafferty Opinion" with this observation: "This analysis of the respective powers and duties of the State Board of Education and the Superintendent of Public Instruction once again underscores the long-recognized problem in this area. It would be fruitless here to discourse upon the difficulty of requiring a policy-making board appointed by the Governor [and confirmed by the Senate] to have its policies carried out by and through an individual who is elected by the people."[56]

1963 - The Little Reports

One of the immediate outcomes of Superintendent Rafferty's election in 1962, was a discussion in the legislature regarding the role and function of the Superintendent vis-a-vis the State Board. In response to this discussion, three Assembly Constitutional Amendments

were introduced during the 1963 legislative session that would have done away with the popular election of the Superintendent.[57] All three failed to make the ballot.[58]

In that same year, largely in response to burgeoning enrollment levels and ongoing governance controversies, the Legislature once again commissioned major studies on the structure and administration of K-12 education in California. The accounting firm of Arthur D. Little was employed to carry out the bulk of this work. Two recommendations from the first phase of the study related directly to the appropriate role of the State Board of Education and the State Department of Education. Specifically, the report recommended that "The California State Board of Education is both logically and legally in a position to initiate and lead State level developmental planning for education,"[59] and that "The California State Department of Education, as the staff and administrative agency of the State Board of Education, has a vital role to play in the State level planning process."[60]



California State Library, California Collection, Class on Beach.

The second phase of the Little study, published in 1967, addressed itself more specifically to the roles of the Superintendent of Public Instruction and the State Board of Education. It recommended that the State Board of Education should consist of ten members who would be appointed by the Governor from a list of candidates developed by the Legislature, and that Board members should be appointed for terms of ten years.[61] It further recommended that the State Superintendent should be appointed by and fully responsible to the State Board and serve as its Executive Officer, Secretary, and as Chief Administrative Officer of the State Department of Education.[62]

The Little study noted that the situation (in which the State Superintendent is popularly elected) made it impossible for a governing board to control its executive officer and ensure effective administration. "This represents a violation of a very fundamental principle of organization. The potential for conflict in this situation is all too apparent and results in confusion of purpose and dissipation of energy, time, and opportunity. The numerous opinions of various attorneys general over time attest to the continued seriousness of the problem, as do the actions of the Legislature in moving into what is perceived as a chaotic situation."[63]

The Little study defined the respective roles of the State Board of Education, the Superintendent of Public Instruction, and the Governor's Cabinet. It noted that the mission of the State Board was to: (1) govern the State system of public and community college education and the State Department of Education; initiate long-range planning; (2) define

long-range goals, priorities, and comprehensive plans; recommend policy goals and plans to the Governor and Legislature; and (3) set policy, establish programs, and adopt rules and regulations within limits and according to the charter established by the Legislature.[64] The report also recommended that the Board should act to ensure equality of educational opportunity and the quality of education by setting and enforcing standards.[65]

The Legislature chose to maintain the State's bifurcated system of K-12 governance by not acting on Little's recommendations.

1968 – Another Proposal for Constitutional Reform

In spite of the numerous efforts and recommendations for reform, it is important to note that up until this time the constitutional provisions governing the State Board of Education had remained virtually unchanged since their adoption in 1912. Another unsuccessful attempt at reform was made in 1968 (during the tenure of Superintendent of Public Instruction Max Rafferty) to allow the Legislature, by two-thirds vote, to change the selection process for the Superintendent from statewide election to some other means. The voters defeated a 1968 statewide initiative, Proposition 1, which among other things would have changed the process for selecting the Superintendent.[66] (For ballot arguments see Appendix A4.)

Numerous leaders in government at the time supported the reform effort.[67] However, like all former efforts to change the office of Superintendent of Public Instruction from an elected to an appointed position, the recommendation to amend the Constitution was once again rejected. Nevertheless, the numerous studies and analyses of educational administration and governance conducted during this time did result in some changes in the operation of the State Department of Education. The Department of Education was restructured and strengthened through the efforts and encouragement of the Superintendent. In particular, the Department reorganized its junior college staff, and steps were taken that resulted in the legislative establishment of a separate governing board for public junior colleges (renamed community colleges), effective January 1, 1968.[68]

1970 - The Veysey-Rodda Act

The Veysey-Rodda Act, adopted by the Legislature in June 1970, significantly streamlined the constitutional provisions covering the State Board of Education.[69] It accomplished two key objectives: (1) it removed the requirement that state-adopted textbooks for elementary schools be in uniform series; and (2) it removed the provisions charging county superintendents and country boards of education with responsibility for the examination and certification of teachers, thus leaving those matters subject to state law.[70]

Since 1970, the constitutional provisions regarding the State Board of Education have remained substantially unchanged. A 1976 constitutional amendment did modify Section 7 of Article IX, but only to provide for multi-county boards of education.[71] The last major statutory change to the State Board was the addition of a voting student member in 1983.[72]

1982-1990 - Honig, Deukmejian, and a Little Hoover Commission Report

Some recent conflicts between the Superintendent of Public Instruction and the State Board of Education can trace their roots to the election of Bill Honig as Superintendent of Public Instruction and George Deukmejian as Governor, both in 1982. That election resulted in a Superintendent of Public Instruction (identified as a Democrat, even though the position is nonpartisan)[73] and a largely Republican State Board of Education, during a time in which partisan wrangling became commonplace in state government, especially over the issue of K-12 funding. The discord lasted for several years.

The conflict over the authority of the Superintendent of Public Instruction, the State Department of Education, and the State Board of Education came to a head when the Milton Marks Commission on California State Government Organization and Economy (known as the Little Hoover Commission) issued a report in February 1990 entitled, *K-12 Education in California: A Look at Some Policy Issues*. In its report the Commission found that the structure of the California educational system was not operating as legally intended. It observed that the Superintendent of Public Instruction had assumed the role of policy maker, and that the State's schools were without the benefits associated with effective educational policy that would be the case if they were governed by a strong state board.[74]

The Little Hoover Commission report outlined several recommendations. Among those, the commission urged the passage of legislation that would give the Board authority to approve the Department of Education's budget. Such authority would make it clear that the Board's authority is superior to that of the Department. The Commission also recommended that the Attorney General file an action to prevent the Department from violating the Administrative Procedure Act. Its recommendation was based on a concern that the Department was circumventing the State's regulatory process in its approval and distribution of program guidelines—a responsibility it believed was assigned to the State Board.[75]

1991 - State Board of Education vs. Honig

The 1990 Little Hoover Commission report highlighted the inconsistencies in the relationship between the Superintendent and the State Board, and ultimately these inconsistencies led to litigation between the two governing bodies. After months of negotiation between the Superintendent and the State Board regarding the authority each had over the other, the Board filed a petition for a writ of mandate in the California Supreme Court on November 14, 1991. The Supreme Court transferred the petition to the Appellate Court, which ultimately issued an alternative writ.

The Appellate Court decision found in part: "We conclude the Legislature intended the [State Board of Education] to establish goals affecting public education in California, principles to guide the operations of the Department, and approaches for achieving the stated goals. Its role as 'the governing . . . body of the department' (§ 33301, subd. (a)) refers to governance in the broad sense by virtue of its policymaking authority. The Legislature did not intend the Board to involve itself in 'micro-management.' Thus, its responsibility to 'direct and control' the Department . . . necessarily involves general program and budget oversight as a means of monitoring the effectiveness of its policies."

The Court continued that "By contrast, the Legislature intended the Superintendent [of Public Instruction] to be involved in 'the practical management and direction of the executive department.' In this role, the Superintendent is responsible for day-to-day execution of Board policies, supervision of staff, and more detailed aspects of program and budget oversight."[76] Upon appeal to the State Supreme Court by the Superintendent of Public Instruction, the high court refused to review the Appellate Court decision, thus allowing it to stand.

1991 - The Creation of the Position of the Secretary of Child Development and Education

Further complicating the Court's interpretations of roles and functions of the Superintendent and the State Board of Education, Governor Pete Wilson attempted to create in statute the position of Secretary for Child Development and Education. The Governor began the process by issuing Executive Order W-1-91. It stated that the new Secretary: (1) would sit as a member of his cabinet; (2) would be responsible for presenting recommendations to the Governor to ensure the well being of California's children; (3) serve as the Governor's liaison with appropriate state agencies and departments on child development and education issues; (4) serve as the Governor's children's and education advocate throughout the nation and California; (5) chair the Interagency Council for Child Development; and (6) consult with the Director of the Department of Finance, the Secretary of Health and Welfare, and other appropriate agency and department heads on policy and fiscal recommendations affecting state and local child development and education services and programs.[77]

Although previous Governors have employed various "advisors" on education,[78] the introduction of a third head who would be responsible for advising the Governor on education policy caused additional consternation for the Superintendent and for the Democrat controlled legislature. From 1991 to 1995, Governor Wilson sponsored four bills to create statutorily the Secretary for Child Development and Education as a position in his Cabinet.[79] However, the Legislature refused to create the new position, and rejected each of the Governor's bills. Although the Secretary for Child Development and Education position was never created in statute, Governor Wilson maintained the Cabinet-level post by funding it through his Office of Planning and Research. Governor Gray Davis has retained the Cabinet-level position, but has renamed it Secretary for Education.

1993 - Senate Bill 856 (Dills)

In response to the Appellate Court decision in *State Board of Education vs. Honig,* Senator Ralph Dills introduced legislation in 1993, which proposed to clarify the legislature's intent with regard to the appropriate roles of the Superintendent of Public Instruction and the State Board of Education. Specifically, SB 856 would have deleted the Education Code provisions that required the Superintendent of Public Instruction to execute the policies of the State Board of Education. In effect, this legislation would have clearly placed the Superintendent of Public Instruction at the center of the policy making process for K-12 education. SB 856 would have required the State Board of Education to carry out the duties and functions outlined in statute and the Constitution; however, no further duties or functions were implied. In addition, SB 856 stated that "the State Board of Education shall serve in an *advisory capacity* to the Superintendent of Public Instruction with regard to all other education related matters."[80] Both houses of the Legislature passed the bill, but the Governor vetoed it.[81]

1996 - California Constitution Revision Commission Recommends Eliminating the Elected Superintendent

In its 1996 report, the Constitution Revision Commission wrote "that California has an educational system that provides no real focal point for responsibility, no flexibility for local districts and responsibilities are widely scattered, resulting in no single official or entity being accountable for the state's education system either at the state or local level."[82] The Commission noted that California's structure of K-12 governance at the state level was confusing, inefficient, and lacked a clear delineation of accountability between the Superintendent of Public Instruction, the State Board of Education, the Governor, and Secretary for Education. To correct this situation, it encouraged the Governor and Legislature to clarify K-12 governance at the state level.[83]

To accomplish the task, the Commission recommended that the elected office of Superintendent of Public Instruction be eliminated in favor of a Governor-appointed education executive, subject to Senate confirmation. The Constitutional issue surrounding the role of the Superintendent and that of the State Board of Education hinged on the value of separation (an independent voice of an elected official) compared to the importance of a unified state education policy and implementation structure.[84] The Commission wrote that the Governor should be responsible for K-12 education, and it recommended that the responsibilities of the Superintendent be outlined in statute rather than by the Constitution. It also recommended deleting Constitutional references to the State Board of Education.[85] The Commission's recommendations were not acted upon.

1998 - Interpreting the State Board's Authority

The Constitution Revision Commission was accurate in recognizing the lack of clarity in the authority of the various education leaders. In 1998, a conflict arose over the responsibilities and authority the State Board of Education in light of the passage of Proposition 227 – the voter imposed initiative that requires one-year English immersion programs for limited English speaking students. Many school districts throughout the state had been required to offer multi-year bilingual education programs and services to their limited-English-speaking students prior to the proposition's passage. Proposition 227, however, required that school districts develop one-year "sheltered English immersion" programs, and prescribed that if parents wanted their children to continue in a bilingual education program, that they would have to submit a waiver request, and the district would have to offer a bilingual education program.

The issue of contention between the Superintendent and the State Board dealt with whether the Board had the unilateral authority to grant waivers from Proposition 227 directly to school districts that wanted to continue their existing programs. The Superintendent's General Counsel opined that the Board had such authority since existing law requires the Board to approve all requests for waiver of any section of the Education Code except in specified cases.[86] However, the Board's Staff Counsel advised the Board that it did not have such unilateral authority, and that such waivers would be contrary to the intent of the electorate.

The lack of clarity of existing statutes, coupled with the provisions of Proposition 227, caused at least two differing legal interpretations regarding the authority and powers of State

Board. In addition, current litigation regarding the provisions of Proposition 227 might affect how English immersion and bilingual education school programs are implemented.

Governance Structures

The history of the conflicting roles of the Superintendent and the State Board of Education may lead the reader to question whether California's current model of K-12 governance is the most effective. Although California's structure of governance is not unique, only ten other states throughout the nation have a similar governance system. This is not to suggest that California's system is necessarily unworkable, but rather that the current system may invite discord among the state's educational leaders when they challenge each other's roles and functions.

The California Quagmire

California's Constitution requires that the Superintendent of Public Instruction be elected, and that the State Board be either appointed or elected. The Constitution, however, neither prescribes the duties of these education entities, nor does it define the relationship between the two authorities. By contrast, current statutes define the powers and responsibilities of both the Superintendent and the State Board more specifically. These laws: require that the Governor appoint the State Board; make the Board responsible for all questions of policy; and require the Superintendent to execute the policies that have been decided upon by the Board.

Although these statutes appear to clearly differentiate between the responsibilities of these two authorities, they are unclear as to whether the Superintendent has the authority to set policy, or how the Board might govern state programs. The Superintendent is elected, holds a Constitutional office, and is held accountable at the ballot box. Thus it is difficult to see how the incumbent serving in this position can be precluded from developing and setting policy. Likewise, so long as the State Board has the responsibility to set policy for the K-12 system, its involvement in the oversight of state programs is inevitable.

This quagmire was noted in a recent report by the Office of the Legislative Analyst in which the authors wrote, "state statutes fail to establish a consistent governance framework for the board and SPI [Superintendent of Public Instruction]. State law places the board in charge of policy despite its status as an appointed board serving with an elected SPI. Then, current law draws both the board and the SPI into policy making without a clear division of responsibilities between the two entities. Instead of creating clear lines of authority and accountability, statutes permit (or even encourage) conflict over 'turf' and power."[87] In order to preclude such turf battles, it may be time for the Governor and the Legislature to consider an alternative governance structure for K-12 education in California.

Alternative Governance Structures

The Education Commission of the States has identified four basic structures of K-12 governance. These structures describe the formal relationships among the Governor, the Chief State School Officer (CSSO), and the State Board of Education (SBE), and reflect

various alternatives for the "appointment" and/or "election" of state education policy- and decision-makers.[88] Forty states conform to one of these four basic structures:

- Structure One—the Governor appoints the State Board of Education, which in turn appoints the Chief State School Officer.
- Structure Two—the citizenry elects the State Board of Education rather than its being appointed by the governor; as in Structure One, the State Board of Education appoints the Chief State School Officer.
- Structure Three—the Governor appoints the State Board of Education; the Chief State School Officer is elected (the California model).
- Structure Four—the Governor appoints both the State Board of Education and the Chief State School Officer.[89]

Table 1 shows that no one structure has been decisively chosen over any other by the fifty states. Of the forty states that have chosen one of the four basic governance structures, twelve states have selected Structure One, eight states employ Structure Two, eleven states embrace Structure Three, and nine reflect Structure Four. The remaining ten states have unique governance structures.[90]

Several States Have Made Some Governance Changes

During the past two decades, several states have made some changes to their K-12 governance systems. Some states have changed their structures entirely, or changed their rules of governance. Other states have made modest changes in the manner and authority by which Board members are appointed, while others have changed their number of Board members. Several states created a new Secretary for Education position (as was done here in California). In Arkansas, Florida, Maine, Maryland, New Jersey and Tennessee, for example, statutes specify that the CSSO is a member of the Governor's Cabinet.[91]

A Move Toward Centralization

Many states throughout the nation are attempting to centralize education policy in the Governor's office. In 35 states, the Governor appoints all or some of the State Board of Education (SBE) members. In 21 states, the Governor also, either directly or indirectly through his/her appointed SBE, appoints the Chief State School Officer (CSSO). For these states, considerable authority and accountability over education policy rests with the Governor.[92] Conversely, in 12 states the SBE is elected, while in 11 states the CSSO is elected. For these latter states, the responsibility for setting educational policy is split among various decision-makers, and the Governor's influence over education policy matters is reduced.[93]

The Role and Function of a State Board of Education (SBE)

The State Boards of Education throughout the nation have a variety of roles and functions. Although all Boards are legal administrative bodies, not all of them have parallel powers and duties, and the authority delegated to each varies.[94] Generally, most Boards have several common responsibilities, including: establishing certification standards for teachers and

administrators; establishing high school graduation requirements; establishing state testing and assessment programs; selecting textbooks for use by school districts; establishing standards for accreditation of local school districts; establishing standards for preparation programs for teachers and administrators; reviewing and approving the budget of the state education agency; establishing pupil academic standards; and developing rules and regulations for the administration of state programs.[95]

Selecting the State Board of Education

There are a variety of mechanisms for selecting members to a State Board of Education. As Table 2 shows, in 29 states, the Governor appoints all members of the State Board, and in four states the Governor shares appointments to the Board with either the electorate or the legislature. Thirty states require Board members to be confirmed by either the legislature as a whole or by the Senate. Board members are elected in 11 states, either in partisan elections (six states) or nonpartisan elections (five states). In three states, Board members are selected in a combination of election and appointment.

As part of the selection process, some states restrict the number of Board members who are affiliated with any one political party. In addition, several states require that Board members represent various geographic areas of the state.[96]

The Role and Function of the Chief State School Officer (CSSO)

The CSSO in most states is usually "responsible for the general administration of the state's public school system, heads the state department of education and directs the activities of the department's professional staff in regulating and supporting the state's public schools. In some states, CSSOs have a role in adjudicating education controversies in the administrative appeals process . . .The [CSSO's] relationship to the SBE depends, in part, on how the law provides for his or her selection. The CSSO usually sets the agenda for the state department of education, and the department under the CSSO's leadership conducts research and provides data to inform the SBE in its policy-making function. By proposing legislation, setting the department's agenda and controlling information provided by the state department of education, the CSSO can influence what issues are considered by the state legislature and the SBE."[97]

The titles most often associated with the CSSO are Superintendent of Public Instruction, Superintendent of Education, Commissioner of Education, Director of Education, and Secretary of Education. Often the title associated with the incumbent reflects what role and function the CSSO plays.

Table 1. Education Governance Structures in the Fifty States

STRUCTURE ONE (12 states) *Governor appoints SBE; SBE appoints the CSSO*	STRUCTURE TWO (8 states) *SBE is elected; SBE appoints the CSSO*	STRUCTURE THREE (11 states) *Governor appoints SBE; CSSO is elected*	STRUCTURE FOUR (9 states) *Governor appoints both the SBE and the CSSO*
Alaska	Alabama	Arizona	Delaware
Arkansas	Colorado	California	Iowa
Connecticut	Hawaii	Georgia	Maine
Illinois	Kansas	Idaho	Minnesota
Kentucky	Michigan	Indiana	New Jersey
Maryland	Nebraska	Montana	Pennsylvania
Massachusetts	Nevada	North Carolina	South Dakota
Missouri	Utah	North Dakota	Tennessee
New Hampshire		Oklahoma	Virginia
Rhode Island		Oregon	
Vermont		Wyoming	
West Virginia			

States that do not conform to one of the four basic structures:

Florida – The state board of education (SBE) consists of seven elected cabinet members: the governor, secretary of state, attorney general, comptroller, treasurer, commissioner of agriculture and chief state school officer (CSSO).

Louisiana –Eight state board members are elected, and the governor appoints three members. The SBE appoints the CSSO.

Mississippi – The governor appoints five SBE members, while the lieutenant governor and speaker of the house each appoint two members. The SBE appoints the CSSO.

New Mexico – Ten SBE members are elected, and the governor appoints five. The SBE appoints the CSSO.

New York – The state legislature elects SBE members, and the SBE appoints the CSSO.

Ohio – State board is a hybrid, with 11 members elected and eight appointed by the governor with the advice and consent of the senate. CSSO appointed by SBE.

South Carolina – Legislative delegations elect 16 SBE members, and the governor appoints one SBE member. The CSSO is elected.

Texas – The SBE is elected, and the governor appoints the CSSO.

Washington – Local school boards elect SBE members, and the citizenry elects the CSSO.

Wisconsin – There is no SBE, and the CSSO is elected.

Source: State Education Governance Structures. Denver, CO: Education Commission of the States, 1993. Updated 1998.

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Selecting the Chief State School Officer

The CSSO is elected in 15 states—six on a nonpartisan basis and nine on a partisan basis. In most of these states, the elected CSSO is part of the executive branch, or has an independent state administrative office with specific powers and duties prescribed by the state legislature.[98] Many states during the last century have moved away from electing their CSSO to appointing them. In 1900, the State Board appointed only 3 CSSOs, 7 were appointed by the Governor, and 4 by some other means; 31 were elected. In 1950, the Board appointed 13 CSSOs, 6 were appointed by the Governor, and 29 were elected.[99] Since 1983, three states have given up their elected CSSO in place of an appointed one.

Today, as Table 2 shows, the CSSO is appointed in 35 states, either by the State Board (25 states) or by the Governor (10 states). In those 25 states in which the Board appoints the CSSO, four require either gubernatorial or legislative approval. In the ten states in which the Governor appoints the CSSO, all appointments require legislative approval.

If California were to change its structure for selecting its CSSO from "elected" to "appointed," a Constitutional Amendment would be required.

Table 2. Method of Selection of State Boards of Education and the Chief State School Officer

State	Method of Selection of State Board	Method of Selection of Chief State School Officer
Alabama	PB	AB
Alaska	AG; confirmed by Legislature	AB; approved by Governor
Arizona	AG; confirmed by Senate	PB
Arkansas	AG; confirmed by Senate	AB; approved by Governor
California	AG; confirmed by Senate	NPB
Colorado	PB	AB
Connecticut	AG; confirmed by Legislature	AB
Delaware	AG; confirmed by Senate	AG; confirmed by Senate
Florida	PB	PB
Georgia	AG; confirmed by Senate	PB
Hawaii	NPB	AB
Idaho	AG; confirmed by Senate	PB
Illinois	AG; confirmed by Senate	AB
Indiana	10 by AG; plus CSSO	PB
Iowa	AG; confirmed by Senate	AG; confirmed by Senate
Kansas	PB	AB
Kentucky	AG; confirmed by Legislature	AB
Louisiana	8 elected; 3 AG (confirmed by Senate)	AB
Maine	AG; confirmed by Legislature	AG; confirmed by Legislature
Maryland	AG; confirmed by Senate	AB
Massachusetts	AG	AB
Michigan	PB	AB
Minnesota	AG; confirmed by Senate	AG; confirmed by Senate
Mississippi	5 AG (confirmed by Senate); 4 by Legislature	AB; confirmed by Senate
Missouri	AG; confirmed by Senate	AB
Montana	AG; confirmed by Senate	PB
Nebraska	NPB	AB
Nevada	NPB	AB
New Hampshire	AG	AB
New Jersey	AG; confirmed by Senate	AG; confirmed by Senate
New Mexico	10 elected: 5 AG (confirmed by Senate)	AB
New York	Appointed by Legislature	AB
North Carolina	AG; confirmed by Legislature	PB
North Dakota	AG	NPB
Ohio	11 NPB; 8 AG	AB
Oklahoma	AG; confirmed by Senate	NPB
Oregon	AG; confirmed by Senate	NPB
Pennsylvania	Appointed by Legislature	AG; confirmed by Senate
Rhode Island	AG; confirmed by Senate	AB
South Carolina	16 Appointed by Legislature; 1 AG	PB
South Dakota	AG; confirmed by Senate	AG; confirmed by Senate
Tennessee	AG; confirmed by Legislature	AG; confirmed by Legislature
Texas	PB	AG; confirmed by Senate
Utah	NPB	AB
Vermont	AG; confirmed by Senate	AB; Governor approves
Virginia	AG; confirmed by Legislature	AG; confirmed by Legislature
Washington	9 elected by school boards; 1 by private schools	NPB
West Virginia	AG; confirmed by Senate	AB
Wisconsin	None	NPB
Wyoming	AG; confirmed by Senate	PB

SOURCE: Adapted from Council of Chief State School Officers and Education Commission of the States -- AB=Appointed by board; AG=Appointed by Governor or other administrative authority; PB=Partisan ballot; NPB=Nonpartisan ballot

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A Precursor to Options for Restructuring California's K-12 Governance System

California has long been plagued with a "two-headed" system of K-12 governance. Under this system there have been longstanding disputes over who is responsible for statewide policy making and the administration of California's public school system. Numerous reports and studies since 1919 have recommended clarifying, redefining, or reinventing the roles and selection process for the Superintendent of Public Instruction and the State Board of Education. However, many of these recommendations were either not adopted by the legislature, were vetoed by the Governor, or were rejected by the voters. Since the State's inception, California's underlying structure of K-12 governance has remained virtually unchanged.

Following a national trend, recent California governors and members of this state's legislature have encouraged the centralization of both policy making and the administration of K-12 education at the state level. Such centralization began with the passage of Proposition 13 in 1978. That proposition shifted the burden for financing K-12 education from local governments (via their property tax bases) to the State's general fund. In addition, recent efforts at holding schools accountable for the performance of their students to statewide academic standards have furthered the cause of centralization.

With the State holding the purse strings, who controls the billions of state dollars that are earmarked for education will always be at issue. The Governor (and his appointed State Board of Education), the Legislature, the Superintendent for Public Instruction, and the Secretary for Education, as policy makers, have much at stake regarding how resources can be best spent. However, California's current governance paradigm fosters fertile ground for disagreement, and current constitutional provisions and statutes remain unclear about how much authority each of the various K-12 education leaders has.

As state leaders continue their efforts of developing the State's education agenda, establishing an effective governance system that addresses the most urgent policies will be no easy task. "There will always be tradeoffs in efforts to design an efficient education system with clear lines of authority while providing adequate checks and balances for control of the state's education agenda."[100]

California's longstanding debate over whether its Chief State Schools Officer should be elected or appointed focuses attention on whether the nature of the Superintendent's office should be political or professional. "There are concerns that appointed chiefs, who are more likely to be professional educators, have a vested interest in the status quo. But concerns are also voiced that elected CSSOs, who are more likely to be politicians, may not fully understand the complexities of the educational enterprise and may make decisions based on political expediency rather than educational efficacy."[101]

The expanded role that the Governor and Legislature are playing in the development of statewide education policy is also an issue when considering restructuring education governance. For nearly 150 years, the Superintendent and the State Board of Education in California have functioned somewhat independently from the Governor and Legislature, forming parallel structures (with executive and policy making offices) that administer the

details of education policy based on broad gubernatorial and legislative guidelines. The creation of a Secretary of Education, responsible for developing the Governor's education policy agenda, and for administering several small programs,[102] provides an additional complicating dynamic in the business of education policy formulation and implementation.

With the Governor and Legislature becoming increasingly assertive in developing policy agendas related to school improvement, accountability and performance, the role and function of the Superintendent, the State Board, and the Secretary for Education warrants an extensive review. As part of that review, the Governor and legislature might consider alternative models of governance and administration for California's K-12 education system.

Options for Restructuring the Governance and Administration of K-12 Education

It should be noted that the following options are not mutually exclusive. There are numerous permutations among these options, as it is possible to combine several together. For example, the State Board of Education could be elected, and would appoint the Chief State Schools Officer. Or the Board could be appointed, and would appoint the CSSO. Another example would be both the State Board of Education and the Superintendent for Public Instruction could be elected, and the Superintendent could serve as a member of the Board, similar to how the State Controller sits as a member to the State Board of Equalization. To that end, the intent of the following options is to provide a point of departure for discussions among policy makers regarding alternative K-12 governance structures.

Option 1: Clearly define the role and function of the State Board of Education, the Chief State Schools Officer (currently Superintendent of Public Instruction), and Secretary for Education

The Governor and the Legislature could clearly define *in statute* the role and function of the State Board of Education, the Superintendent of Public Instruction, and the Secretary for Education. In defining these roles, the Governor and the Legislature could prescribe the authority and responsibilities of each of these three entities in a way that would preclude potential conflicts. The assumption here is that each of these educational authorities will continue to exist; yet it is possible to consolidate the function of or eliminate any entity as part of a restructuring effort.

It is important to note, however, that even if the Governor and the Legislature clearly define "statutorily" the roles of the Superintendent and the State Board, it is feasible that the Courts could reinterpret their powers and authority from a "constitutional" perspective.

The State Board of Education would be responsible for setting policy and for the governance of the state's K-12 education system. Some functions that the Governor and the Legislature might prescribe to the Board include, but are not limited to: formulating policies that supplement those prescribed by the Legislature; selecting textbooks for use by school districts; establishing high school graduation requirements; establishing state testing and assessment programs; establishing standards for accreditation of local school districts and preparation programs for teachers and administrators; establishing academic standards; reviewing and approving the budget of the state education agency; establishing certification

standards for teachers and administrators; developing rules and regulations for the administration of state programs; and providing the final stage of an appeals process regarding education controversies.

The role and function of Chief State School Officer (CSSO) would depend on how the incumbent was selected. Some functions that the Governor and the Legislature, or the electorate, might prescribe to the CSSO include, but are not limited to: the general supervision of the state's public school system; director of the State Department of Education; setting the agenda for the Department; directing of the activities of the Department's professional staff in regulating and supporting the public schools; the adjudication of education controversies as part of the administrative appeals process; and conducting research and providing information to the State Board to assist in policy making. If the Superintendent was appointed by the State Board or by the Governor, the incumbent should then be a member of the Governor's cabinet.

The Secretary for Education would be statutorily created, and would be the primary advisor to the Governor on education policy. The Secretary would be a member of the Governor's Cabinet, and would be responsible for developing the Administration's education policy agenda. The Secretary would serve as the Administration's ombudsman to the State's various education interest groups.

Option 2: Change the selection process for Board members

There are several alternatives regarding how State Board members could be selected. The Board could be appointed entirely by the Governor (as currently done), by a combination of appointments by the Governor and Legislature, or it could be elected. If Board members are appointed, the Legislature might wish to prescribe that the number of Board members affiliated with any one political party would be restricted, or that they represent various regions throughout the state. This option would require no change to the State's Constitution.

Option 2a. The Governor makes all appointments to the Board. (Status Quo)

Board member terms would be staggered and would not exceed four years in length. The Senate would confirm each of the Governor's appointments.

Option 2b. The Governor, the Speaker, and the Senate President pro Tempore share appointments to the Board.

The Governor and leaders of both houses of the Legislature would appoint Board members. Board member terms would be staggered and would not exceed four years in length. Senate confirmation might not be necessary.

Option 2c. The People elect the Board.

The People would elect the Board on a non-partisan basis. Elections would be staggered and held in concert with statewide elections every two years. Board members would be term-limited to eight years. Board members would represent various geographic regions of the State.

Option 3: The State Board of Education appoints the Chief State School Officer

The Board would appoint the Chief State School Officer, who in turn would carry out the Board's policies. The appointed CSSO would be responsible for the administration of all state programs through the state education agency. The CSSO would be directly accountable to the Board. This option would require amending the State's Constitution.

Option 4: Give the Governor the prime responsibility for education policy. The Governor appoints both the State Board and a Chief State School Officer

The Governor would appoint the Board. Board member terms would be staggered and would not exceed four years in length. Board members would represent various geographic regions of the state. The Senate would confirm the Governor's appointments.

The Governor would also appoint the state's Chief State School Officer. The CSSO would be a member of the Governor's cabinet, and would be responsible for: (1) carrying out the policies of the State Board; (2) acting as the Governor's primary advisor on education policy; and (3) administering all statewide K-12 programs.

A Constitutional Amendment would be required for these changes.

Option 5: Recognize the elected Superintendent as the State's chief education official

The elected Superintendent for Public Instruction would be responsible for all policy making and direction of K-12 educational activities in the State. The Superintendent would appoint a State Board of Education, whose members would be subject to Senate confirmation. The State Board would be advisory to Superintendent.

Option 6: Recognize an appointed Chief State School Officer as the State's chief education official. Eliminate the State Board of Education.

The Governor would appoint the state's Chief State School Officer. The CSSO would be a member of the Governor's cabinet. The CSSO would be responsible for: (1) developing and implementing all state policies pertaining to K-12 education; and (2) administering all statewide K-12 programs.

The State Board of Education would be eliminated. However, the CSSO might appoint advisory committees to assist him/her in the development of state policies or for the purpose of administering statewide programs.

This option would require a Constitutional Amendment.

Option 7: Maintain the status quo

Although there have been many confrontations between the Superintendent of Public Instruction and the State Board of Education, some scholars argue that such discourse is healthy, in that certain checks-and-balances are fostered by a system whereby a Board (responsible for setting state policy) works *with* an elected Superintendent, who is

responsible for administering the policies of the Board, while responding to the will of the electorate. The Governor would maintain the Secretary of Education position for the purpose of shaping the Administration's K-12 education policy. To that end, the Governor, the Legislature, and the electorate may wish to continue the current governance structure and should recognize that occasional conflicts will take place.

APPENDIX A – BALLOT ARGUMENTS

APPENDIX A1 – Arguments for and against Assembly Constitutional Amendment No. 3
Ballot of Tuesday, November 5, 1912

APPENDIX A2 – Arguments for and against Senate Constitutional Amendment No. 26
Ballot of Tuesday, November 6, 1928

APPENDIX A3 – Arguments for and against Senate Constitutional Amendment No. 2
Ballot of Tuesday, November 4, 1958

APPENDIX A4 – Arguments for and against Legislative Constitutional Amendment,
Proposition 1, Ballot of November 5, 1968

(Reproduced from ballot pamphlets for 1912, 1928, 1958 and 1968)

APPENDIX A1

Arguments For and Against Assembly Constitutional Amendment No. 3 Ballot of Tuesday, November 5, 1912

FREE SCHOOL TEXT-BOOKS

ASSEMBLY CONSTITUTIONAL AMENDMENT NO. 3.

A resolution to propose to the people of the State of California an amendment to the constitution of the state by amending section 7 of article IX thereof, relating to boards of education, free text-books, and minimum use of such text-books.

REASONS FOR ADOPTING ASSEMBLY CONSTITUTIONAL AMENDMENT NO. 3, RELATING TO BOARD OF EDUCATION AND FREE SCHOOL BOOKS.

This proposed amendment changes section 7 of article IX of the constitution by providing for a reorganization of the state board of education by the legislature—necessarily with the approval of the governor.

With the power and corrective of the initiative, referendum and recall in the hands of the people no fear need exist that the legislature, the governor and such reorganized board of education would not perform their full and comprehensive duties in their respective spheres of action.

The amendment provides that text-books for use in the day and evening elementary schools of the state shall be furnished by the state free of charge or any cost whatever to the children attending such schools: instead of, as at present, that such text-books shall be furnished to such children at the cost price.

Except for the two changes above noted, the proposed amendment makes no change in the existing law.

Under the amendment the best expert services of the country may be employed, or the best copyrights may be used under the royalty system, for the purpose of providing for a uniform

series of text-books for a standardized, uniform, fundamental education of the children of the state, which text-books may be printed, as now, at the state printing office.

The adoption of the amendment will make our elementary or common school education free in fact as well as in name.

With free schoolhouses, free school grounds, free tuition, and free apparatus, there is no reason why free text-books, the most needful of all, should not be furnished.

The cost to the state in making the change will be nominal. The cost of all the text-books of the state series furnished to the school children of the state for fiscal year ending June 30, 1911, amounted to only $194,264. If a tax to raise that amount had been levied against the assessed valuation of all property in the state for that year, such tax would have amounted to only seven and four tenths mills upon the one hundred dollars valuation. If we add to this the cost of supplementals forced into the schools through the efforts of book agents, teachers and boards of education, which, in some counties, exceeds the cost of the regular series provided by law, the cost to the state will still be nominal.

Under the present efficient management of state printing, the cost of the state series of text-books has been reduced, on an average, at least twenty per cent, and the same management has demonstrated that henceforth these books may be printed and bound, using the best materials and workmanship needed for the purpose, for at least twenty per cent less than the former cost price. Such text-books will be used under such sanitary and other regulations as may be prescribed by the legislature.

So far as cleanliness and prevention of transmission of disease is concerned the children of the state will be as well or better protected under the free than under the present system, where the child and parents, under the theory of absolute ownership, believe they are entitled to do as they please with that which they own. Under private, or any, ownership or control, a book carried into the presence of infectious disease will, like clothing on the person, carry infection into the schools. Hence, real protection does not relate to the ownership of the book, but to public and private care in preventing the transmission of disease.

Free text-books will remove the last excuse that some selfish parents have for not sending their children to school. In many, many cases poor families will be benefited out of all proportion to the cost. It is true, on a pauper showing, free text-books may now be procured; but the American spirit will not endure such humiliation.

Opponents of this amendment will probably argue that it is unjust that the state should be required to furnish free text-books in the public elementary schools and not furnish the like books free to similar grades in private schools under private control. The same objection can as reasonably be made to the whole public school system. The complete answer to the objection is, that the state should not support, in whole, or in part, two school systems, the one system under state control and the other system under private control.

There are opponents to this amendment who profess to doubt its validity. Nearly all of the senate, and practically all of the assembly, lawyers and laymen, hold it to be valid. This fact, without entering into argument, should be sufficient.

A Warning

Some school-teachers, acting consciously or unconsciously in the interest of the private book-publishing concerns, the book trust, have advocated the submission of a constitutional amendment in opposition to the foregoing Assembly Constitutional Amendment No. 3, which proposed measure they hope to get upon the ballot through the initiative, by petition. This scheme provides for local adoption by each county, city and high school district, making in all some three hundred and twenty-five different possible adoptions, would destroy a uniform, fundamental education, and would put the state completely at the mercy of the book trust as to the text-books to be used and prices to be paid. The state printing office would be eliminated as a factor and the immense cost of the state printing plant, including the machinery, would be virtually thrown away, for the sole and only purpose of paying enormous profits to the book trust.

Therefore, every voter in the state should vote FOR Assembly Constitutional Amendment No. 3, which will be No. 2 in the column on the ballot containing the amendments and propositions to be voted upon: *and* every voter should likewise vote AGAINST any other amendment relative to text-books which may appear upon such ballot.

T. W. H. SHANAHAN
Author and Introducer,
Senator Second District

JOHN F. BECKETT
Assemblyman Sixty-third District

FRANK M. SMITH
Assemblyman Fifty-first District

ROBERT L. TELFER
Assemblyman Fifty-fifth District

DAN E. WILLIAMS
Assemblyman Twenty-sixth District
Introducers

ARGUMENT AGAINST ASSEMBLY CONSTITUTIONAL AMENDMENT NO. 3, RELATING TO BOARD OF EDUCATION AND FREE SCHOOL BOOKS.

It is provided by law that arguments for and against a proposed constitutional amendment should be sent by the secretary of state to each voter, together with such constitutional amendment. Having been appointed by the speaker of the assembly of the State of California, to prepare and present points against the so-called "Free Text-Book Amendment," I beg to submit the following. The title FREE TEXT-BOOKS, as applied to the foregoing proposed constitutional amendment, is a misnomer, for the reason that the cost of the text-books comes from the state treasury, and you, Mr. Voter, are paying for the same through your taxes. It is true, of course, that the state funds are supplied by the corporations, but in the event that the taxes derived from the corporations are insufficient to operate the state government, you will be required to pay to the state your pro rata of that deficit in order to

meet the needs and requirements of state government. The cost of printing school text-books and distributing them free of charge will run into large figures each year, and may cause or contribute to the cause of creating a deficit, and those of you who do not have children attending the public elementary schools will be contributing to the cost of the books of such children as do attend such schools.

Such an amendment as the foregoing is not required for the purpose of assisting parents who may be unable to pay for their children's books used at public school. If a parent is financially unable to pay for school books for his or her child, or children, there is a provision in the law which will enable such parent to obtain school books free of charge, upon the proper application being made therefor. A sensible teacher or principal, to whom such application is made, will certainly keep such applications from being publicly known, and will thereby avoid offending the feelings or sensibilities of the applicant.

There is a stringent objection, from a sanitary standpoint, viz., to give to a scholar an old and soiled text-book which has been used by others may tend to the spreading of germs and the dissemination of children's diseases. I have been informed that the epidemic of infantile paralysis, last year, in the city of Boston, was largely attributed to the use of infected school text-books.

Educators—teachers in class room principally, uniformly say that scarcely anything plays a greater part in creating a liking in a child for study than a new, crisp and clean text-book—a thing which, during the four years that a text-book is in use, would be unknown. If it were to be the intention of disinfecting these school books after a child had used them, the cost of such disinfection would be great and the process destructive.

As a general proposition, when one receives something for nothing, it is usually treated as being worth nothing, therefore these books will not receive the same treatment at the hands of the children that a privately owned book would receive. A parent who is obliged to spend a few cents which a text-book costs usually sees to it that his child does not destroy, mutilate, or otherwise abuse the book; such parental supervision, in the event of free text-books, will be entirely eliminated.

The giving of books free to the children of state schools and not the children of other schools (and all of them contribute to a great educational benefit to our people), is a discrimination and increases the burden of supporting schools which are not operated by the state.

For the foregoing reasons, I believe that this amendment is unnecessary, and should be defeated.

MILTON L. SCHMITT
Assemblyman Fortieth District.

APPENDIX A2

Arguments For and Against Senate Constitutional Amendment No. 26 Ballot of Tuesday, November 6, 1928

EDUCATION

Senate Constitutional Amendment 26

Amends Sections 2, 3 and 7, Article IX, of Constitution. Provides for State Board of Education, composed of ten members with ten-year terms, appointed by Governor with concurrence of Senate, Superintendent of Public Instruction to be Executive Secretary thereof with salary fixed by law; Board to provide, under legislative regulations, text-books for elementary schools; empowers Legislature to transfer jurisdiction of such Superintendent to Director of Education whenever hereafter it creates latter office, vacating other office while latter exists; authorizes regulations whereby holders of State credentials may teach without county certificates.

Argument in Favor of Senate Constitutional Amendment No. 26

To keep the school system of California out of politics is the object of this amendment. Experience shows that this requires a State Board of Education:

(1) Which holds office for a long time,
(2) Which is not subject to removal with each turn of the political wheel,
(3) Which has undivided responsibility and authority.

Our state now labors under the handicap of a double-headed system. The state board is appointed by the Governor; the state superintendent is elected by the people. The possibility of deadlock has long been realized. A legislative commission, in 1919, gave warning of this danger. This deadlock, with its consequent paralysis of our state school system, actually occurred in 1925-1927, when the teachers colleges at San Francisco and San Jose were without presidents for two years because the state board would not ratify the appointments of the state superintendent.

This amendment removes this danger of deadlock. Moreover, it unifies the administration of the state school system under one central agency:—a new State Board of Education, which appoints a director of education. Thereupon the office of state superintendent becomes vacated, his duties being carried out by the director of education.
This substitution takes place only under the safeguards provided in the amendment. These safeguards prevent the domination of the board by any one Governor in any four-year term

after its initial appointment. Only in case a Governor is reelected does he have the appointment of a majority of the board.

As a further safeguard each appointment must be confirmed by the very high vote of two-thirds of the senate.

The most important safeguard of all, more effective than the recall, is the power of the legislature to restore the position of state superintendent if the system of appointment by the board does not prove satisfactory.

In the effort to secure unity, the other method of selecting the state board: namely, by election, had to be eliminated because our state constitution places in the board the selection of text-books. If the members of the Board were elected it would, therefore, make the board a political prize sought after by commercial interests.

Experience has shown that uniformly capable city and state superintendents have more often been obtained through appointment than through election.

A state board must have the assurance and independence of action that can only come from long-term appointments, otherwise it will become timid, its eyes always watching elections. If it can be ousted at the whim of changing political administrations, the school system of the state will be kept in constant political turmoil.

The amendment does not change the present provisions with regard to free state textbooks, and makes only minor changes relative to county boards and superintendents and teachers' credentials.

That the legislature almost unanimously approves of this amendment is shown by the fact that only ten votes were cast against it out of 120 members.

The plan proposed resembles the method by which the University of California is administered.

Measures similar to this amendment have been adopted by New York, Massachusetts, Pennsylvania and other states which lead in education. Our present State Superintendent of Public Instruction, the deans of three large California universities and practically all other educational experts strongly endorse it.

HERBERT C. JONES
State Senator, Twenty-eighth District.
SANBORN YOUNG
State Senator, Twenty-seventh District

Argument Against Senate Constitutional Amendment No. 26

Senate Constitutional Amendment No. 26 sets up an appointive State Board of Education with ten members whose term of office is ten years. The members of this board are to be appointed by the Governor and confirmed by the senate and when in office are not subject to

recall nor to impeachment, nor to removal from office except for conviction of a crime. Long-term boards, even when subject to removal, have a tendency to become autocratic and domineering. It is inevitable that this unwelcome tendency will be intensified greatly in a board vested with extensive powers, holding office for ten years, and not subject to control by the people.

Amendment No. 26 gives the legislature power to suspend the office of State Superintendent of Public Instruction. Whenever this shall be done, and it is proposed to do it in 1929, a new office to be known as Director of Education is set up by this amendment. This part of the amendment is designed to change the office of State Superintendent of Public Instruction from an elective to an appointive office and to increase the salary from $5,000 a year and traveling expenses to a larger salary with traveling expenses. This part of the amendment is based on the theory that the people have proven themselves incapable of choosing worthy persons as State Superintendent of Public Instruction. The advocates of this plan forget that California has one of the best public school systems in the nation, which system has been fostered and developed by several of the greatest educational leaders of this country, all of whom were elected Superintendents of Public Instruction by the direct vote of the people. This amendment is a part of that insidious campaign which steadily, step by step, is stripping the people of the power of self-government and is setting up a government by appointment in place of a government by popular election. The advocates of this type of government mask their plans with arguments which ignore their real purpose and call attention to other matters. It is easy to surrender self-government. It is most difficult to regain it. Ostensibly this amendment aims to set up a unified state control of our schools. Really it takes the control of our schools from the people and vests that control in a State Board of Education responsible to no one, not even to the Governor who appoints it, or to the senate which confirms it.

FRANK C. WELLER
State Senator, Thirty-Sixth District

APPENDIX A3

Arguments For and Against Senate Constitutional Amendment No. 2 Ballot of Tuesday, November 4, 1958

SUPERINTENDENT OF PUBLIC INSTRUCTION.

Senate Constitutional Amendment No. 2. Makes office of Superintendent of Public Instruction appointive, instead of elective, after 1962. Confers appointing power on State Board of Education, subject to confirmation of State Senate.

Analysis by the Legislative Counsel

Under Section 2 of Article IX of the California Constitution, the Superintendent of Public Instruction is now elected to office each four years at the same time the Governor is elected. He takes office on the first Monday after the first day of January following his election.

This constitutional amendment would provide that, after the expiration of the term of the person elected to the office of Superintendent of Public Instruction in 1958, the office shall be filled by appointment. The appointment is to be made by the State Board of Education with the advice and consent of the Senate, and the first such appointment would be made in January, 1963. Under Section 16 of Article XX, the office would be held at the pleasure of the Board of Education, unless the Legislature prescribes a term of office not to exceed four years.

The amendment would also delete obsolete language relating to the salary of the Superintendent, which was superseded in 1944 by the adoption of Section 22 of Article V.

Argument in Favor of Senate Constitutional Amendment No. 2

VOTE "YES" ON PROPOSITION NO. 13 AND IMPROVE OUR SCHOOLS

Proposition No. 13 corrects the present law and fixes the full responsibility for sound educational programs for our children with the Governor.

Under present law the Governor must appoint a State Board of Education which has the responsibility for establishing the educational policies of our state but the law does not provide any staff for this board to carry out the policies it determines.

Proposition No. 13 will bring the method of selection of the Superintendent of Public Instruction into conformance with the method of selection of school district superintendents throughout the state by requiring the State Board of Education to appoint the Superintendent of Public Instruction the same as local school boards appoint district superintendents, with the added protection to the public of confirmation by the Senate.

Proposition No. 13 is endorsed by leading educators including the California School Administrators Association.

Vote "YES" on PROPOSITION NO. 13 and improve our educational system.

GEORGE MILLER, JR.,
State Senator

ERNEST R. GEDDES,
Member of Assembly
49th Assembly District

Argument Against Senate Constitutional Amendment No. 2

The State Superintendent of Public Instruction has always been one of the constitutional officers elected by the people. The framers of our State Constitution quite properly felt that this office was so important that it should be filled by popular election. Thus, under our democratic system, we have for more than 100 years preserved the right of the citizens to pass judgment on anyone seeking this highest of educational offices in the state.

Senate Constitutional Amendment 2 proposes to do away with the traditional way of electing the State Superintendent. It would abandon the system under which any citizen can now seek the job and would place in the hands of the State Board of Education the responsibility of selecting the Superintendent, subject to confirmation by the Senate.

Inasmuch as members of the State Board of Education are appointed by the Governor for terms of four years, this method could lead to domination of the State Superintendent by the Governor or even by special interests.

If the appointment of the Superintendent were to be vested in the Board, the terms of the Board members should be lengthened and staggered to prevent any one Governor from gaining complete control of the Board and of its subsequent appointments. Otherwise it would be unwise to have the Board name the Superintendent.

The argument is made that this constitutional amendment merely utilizes at the state level the same system of having a lay board select a professional educator long used in choosing superintendents for local school districts. While this is true it does not in itself assure the selection of a competent person for the job.

The present system has worked well for more than 100 years and no convincing case has been made to indicate that any change should be made at this time.

If you are going to appoint a State Superintendent of Schools, why not make all other state officials appointive too.

NATHAN F. COOMBS, Senator for Napa County
HUGH P. DONNELLY, Senator for Stanislaus County

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APPENDIX A4

Arguments For and Against Legislative Constitutional Amendment Proposition 1 Ballot of Tuesday, November 5, 1968

CONSTITUTIONAL REVISION. Legislative Constitutional Amendment. Repeals, amends, and revises various provisions of Constitution relating to public school system, state institutions and public buildings, cities and counties, corporations and public utilities, water use, state civil service, future constitutional revisions, and other matters. Legislature may provide that Superintendent of Public Instruction be chosen by method other than election; and Legislature may increase membership of Public Utilities Commission.

General Analysis by the Legislative Counsel

A. "Yes" vote on the measure is a vote to revise portions of the California Constitution dealing with the initiative and referendum, public education, state institutions and public buildings, counties and cities, corporations, public utilities, appropriation of water, homesteads and public lands, state civil service, and procedures for amending and revising the Constitution. A "No" vote is a vote to reject this revision. For further details see below.

Detailed Analysis by the Legislative Counsel

This measure would revise portions of the State Constitution listed in the General Analysis above. The revision would include substantive and nonsubstantive changes of the existing provisions, consolidation and rearrangement of provisions, deletion of provisions, and transfer of provisions to the statutory law by Chapter 767 of the Statutes of 1968 which will take effect if this measure is adopted.

Substantive changes in the Constitution that would be effected by the revision, include, among others, the following:

Public Education

(a) The Superintendent of Public Instruction would be made executive officer of the State Board of Education. The present method of his selection, by statewide election, could be changed by the Legislature by a two-thirds vote.
(b) Existing provisions requiring the State Board of Education to adopt and provide a uniform series of free textbooks for use in elementary schools would be replaced with a requirement that the board provide, at state expense, a series of textbooks for use in elementary schools.

(c) Existing provisions fixing the minimum amount of money to be provided annually for support of the public schools would be replaced by a requirement that the Legislature grant basic state financial aid to each school district.

(d) Provisions relating to the public school system, the composition thereof, and powers of the Legislature with respect thereto would be revised. The measure would require that school districts and intermediate units be provided by statute, to be governed by boards and executive officers.

(e) Other provisions concerning the election or appointment of various state and local officers of the public school system would be revised.

Argument in Favor of Proposition 1

California's archaic 1879 Constitution has been amended more than 350 times and is one of the longest constitutions in the world. A former Chief Justice of the California Supreme Court describes it as: ". . . cumbersome, unelastic and outmoded . . . It is not only much too long, but it is almost everything a constitution ought not to be."

In 1962 by more than a 2 to 1 vote, the people mandated modernization of their Constitution. As a result, a blue-ribbon Constitution Revision Commission of leading California citizens was appointed to recommend a revised Constitution. These dedicated citizens, from all walks of life, have now worked without pay for four years and spent thousands of hours at their task. The commission's initial effort produced Proposition 1a which the people approved in 1966 by a vote of 3 to 1 thereby revising the legislative, executive, and judicial articles.

Proposition 1 is the second phase of the Commission's work and represents two years of careful deliberations. It has also been considered extensively by the Legislature and was approved for submission to the people by a two-thirds vote of the members of the Assembly and Senate.

Proposition 1 revises the articles on education, state institutions and public buildings, cities and counties, corporations and public utilities, land and homestead exemption, amending and revising the constitution, and state civil service.

The more significant constitutional provisions in Proposition 1 include continued election of the State Superintendent of Public Instruction, subject to change by statute approved by two-thirds of the members in each house of the Legislature which in turn is subject to the Governor's veto and the people's powers of initiative and referendum. Charges for attending elementary or secondary public schools are prohibited and free elementary textbooks are assured. The present city-county system of local government is preserved. The Public Utilities Commission is continued and provision is made for its powers as an important regulatory agency responsible for protecting the public's interests. And, continuation of California's outstanding civil service system is guaranteed.

It shortens the Constitution by eliminating unnecessary verbiage, obsolete provisions and provisions which are more appropriate in statutory form. It modernizes the remaining provisions by rephrasing and changing them to fit today's needs.

State government today faces new challenges and new responsibilities not dreamed of in 1879. This partial revision of our constitution attempts to meet those challenges by making government more flexible and able to do the job which our citizens have a right to expect. If states are to survive and prosper in our system, they need the tools of effective government—Proposition 1 is another giant step toward that goal. California is again leading the way. Vote YES on Proposition 1.

ASSEMBLYMAN JOE A. GONSALVES
SENATOR RICHARD J. DOLWIG
JUDGE BRUCE W. SUMNER
Chairman, Constitution Revision Commission

Argument in Favor of Proposition 1

We support this proposed revision of the State Constitution and urge all Californians to vote YES on Proposition 1.

ROBERT FINCH
Lieutenant Governor
JESSE M. UNRUH
Speaker of the Assembly
HUGH M. BURNS
President Pro Tempore of the Senate

Argument Against Proposition 1

This proposition should be turned down by the voters. It opens the way for the state government in Sacramento to assume control of local governmental affairs on a sweeping scale. The proposed revision clearly reflects the idea that a centralized governmental apparatus in Sacramento is better qualified than the citizenry to regulate local affairs.

A "NO" vote on Proposition 1 is urged so that Constitutional guarantees which the people now reserve to themselves will not be lost. For example, the proposed revision:

—REMOVES THE GUARANTEE that specific public officials will be elected;

—REMOVES THE GUARANTEE that the state will participate in the financial support of each school district;

—REMOVES THE GUARANTEE that the goals of the public school system are limited and clearly defined; and it

—REMOVES THE GUARANTEE of local control over local affairs.

The measure removes from the Constitution language which, over the years, has acquired an established meaning, and substitutes undefined ambiguous expressions which are likely to cause great turmoil. It abolishes the guarantee that there be an elected county superintendent of schools, and empowers the state government to provide for "intermediate units" in the public school structure. It eliminates provisions guaranteeing that the state will annually provide school districts with at least $120 for each pupil, and substitutes the vague expression that the state shall grant "basic state financial aid" to each district. It eliminates provisions which define the particular schools and institutions which are to comprise the public school system and the educational objectives of the system, and provides merely that the state government shall "provide for and support a free public school system."

The measure removes provisions specifying that each county shall have a board of supervisors, a sheriff, a county clerk, a district attorney, and other officers, and specifies merely that there shall be a "governing body" and "other powers." It removes restrictions on the power of the state government to limit local property tax rates.

The measure removes the guarantee that the State Superintendent of Public Instruction shall be elected by the people, and authorizes the state government to change the methods of his selection. It removes conflict of interest safeguards affecting the Public Utilities Commission and other public officials. It extensively revises provisions concerning the furnishing of free textbooks for elementary schools. The language specifies that "a series of textbooks" shall be furnished. This could tie the state to the outdated single adoption system or to an entire series of a single publisher or author.

This proposition was rushed through the Legislature without the benefit of adequate consideration and study by local governmental bodies and citizens' groups. Although we recognize the need to eliminate obsolete or repetitious language in the Constitution and to rearrange and consolidate some of its sections we urge a "NO" vote on this proposition in

order to guarantee the Constitutional safeguards which protect you against the concentration of excessive governmental power in Sacramento.

JOHN STULL, Assemblyman
80th District
ROBERT H. BURKE, Assemblyman
70th District
H. L. RICHARDSON, Senator
19th District

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Endnotes

[1] The written summary of proceedings of the first Constitutional Convention indicates that the debate of selecting the Superintendent included an argument of whether the Legislature would appoint the official, or if the People would elect him. The summary does not mention any consideration of another appointing authority, such as the Governor or a State Board of Education.
[2] California Constitution of 1849, Art. IX, § 1.
[3] California Constitution of 1849, Art. IX, § 1, as amended in 1960, and in 1990 by Prop. 140.
[4] *State Board of Education v. Bill Honig*. California State Court of Appeal, Third Appellate District, 1993, 4.
[5] Chapter 53, Article 4, § 1 statutorily changed the Superintendent's responsibilities in 1852. Subsequent changes to the Superintendent's responsibilities were by Statute of 1913, page 774; by Chapter 605 of 1921; and by Chapter 162 of 1929. The role of the Superintendent was also changed by Constitutional Amendment in 1862 and in 1946. Responsibilities of the Board were in Chapter 556 of 1870. Subsequent changes to the Board's responsibilities were by Constitutional Amendment in the following years: 1884, 1894, 1911, 1912, 1970, 1976; and in statute by Chapter 328 of 1913 and by Chapter 453 of 1927. A complete review of these statutes and Constitutional Amendments appears in *State Board of Education v. Bill Honig*, 3-5.
[6] John Swett, *History of the Public School System of California*, 1876, 12.
[7] *A History of the California State Department of Education, 1900-1967*, 4.
[8] Ibid, 6.
[9] Normal schools were teacher-training institutes, modeled after "normal" schools in Europe. In California, they initially provided three-year training programs. The "normal schools" were a precursor to the California State University, which today has as a primary mission the of training the State's teachers.
[10] Stats. 1869-1870, ch. 556, § 1, 824.
[11] *A History of the California State Department of Education, 1900-1967*, 6.
[12] *Debates and Proceedings of the Constitutional Convention of the State of California*, September 28, 1878, Three Volumes, Sacramento, 1880, 1091-1097.
[13] Edwin F. Klotz,, *Analysis of the Relationship of the State Board of Education and the Superintendent of Public Instruction*, November 1967, 6-7.
[14] Ibid., 7.
[15] *A History of the California State Department of Education, 1900-1967*, 6.
[16] Ibid., 7.
[17] *State Board of Education v. Bill Honig*, 5.
[18] *A History of the California State Department of Education, 1900-1967*, 7.
[19] California State Board of Education, *A Brief Review of the History of Constitutional and Statutory Provisions Regarding the State Board of Education and the Superintendent of Public Instruction*, (Sacramento: The Board), March 7, 1988, 13.
[20] Ellwood P. Cubberly, in *California State Department of Education Bulletin G-2*, (Sacramento: California State Department of Education), 1928, 5.
[21] *A Brief Review of the History of Constitutional and Statutory Provisions Regarding the State Board of Education and the Superintendent of Public Instruction*, 13-14.
[22] The Amendment passed overwhelmingly, with 343,443 people voting "for" and 171,486 people "against."
[23] *A History of the California State Department of Education, 1900-1967*, 7-8.
[24] Chapter 328 of the Statutes of 1913.
[25] *Analysis of the Relationship of the State Board of Education and the Superintendent of Public Instruction*, 8.
[26] *A Brief Review of the History of Constitutional and Statutory Provisions Regarding the State Board of Education and the Superintendent of Public Instruction*, 19.
[27] Johnson. *Development of the Central State Agency for Public Education in California, 1849-1949*, 1952, 77.
[28] E.R. Snyder, "State Department Reorganization", *California Blue Bulletin*, March 1919, 2; in *State Board of Education v. Bill Honig*, 1993, 7-8.
[29] *A History of the California State Department of Education, 1900-1967*, 12.
[30] Ibid.
[31] *Report of the Special Legislative Committee on Education*, 1920, 17-20.
[32] Ibid.
[33] Ibid.
[34] *A History of the California State Department of Education, 1900-1967*, 14.
[35] Ibid., 16.
[36] Ibid., 18.

[37]Ibid.
[38]Ibid.
[39]California State Department of Education, *Thirty-second Biennial Report of the Superintendent of Public Instruction*, (The Department, 1927), 14.
[40] The Amendment to eliminate the elected Superintendent failed by a margin of 551,858 "for" to 714,411 "against."
[41]*A History of the California State Department of Education, 1900-1967,* 21.
[42] The Superintendent for Public Instruction was the ex-officio Director.
[43] Statutes of 1929, ch. 162, p. 303; School Code, p. 107. This statutory language is now found in § 33301.
[44]*A History of the California St te Department of Education, 1900-1967.*
[45] California Attorney General Opinion 36, 1943.
[46]*State Board of Education v. Bill Honig,* 14.
[47]*A History of the California State Department of Education, 1900-1967,* 31.
[48]*A History of the California State Department of Education, 1900-1967,* 31.
[49]*The Administration, Organization and Financial Support of the Public School System, State of California. A Report of the Study Required by Chapter 36, Statutes of 1944.* State Reconstruction and Reemployment Commission, February, 1945, 7-8.
[50] Opinion California Attorney General, 215-216, 1954.
[51]*State Board of Education v. Bill Honig,* 15-16.
[52] . *A History of the California State Department of Education, 1900-1967,*. 37. One member of the Board would be nominated per year by the California School Boards Association and elected by the School districts. Each district would cast one vote.
[53] The Amendment failed by a margin of 1,519,209 "for" to 2,522,998 "against."
[54] *A History of the California State Department of Education, 1900-1967,*. 37-38.
[55]*A Brief Review of the History of Constitutional and Statutory Provisions Regarding the State Board of Education and the Superintendent of Public Instruction*, 22-23.
[56] California Attorney General Opinion 105, 1963, 114-115.
[57] Assembly Constitutional Amendment No. 2, Assembly Constitutional Amendment No. 8 (which also would have required that the State Board of Education would be elected), and Assembly Constitutional Amendment No. 53 of the 1963 Regular (General) Session.
[58] *A History of the California State Department of Education, 1900-1967,* 44.
[59]*The Emerging Requirements for Effective Leadership for California Education.* Submitted by Arthur D. Little, Inc., State Department of Education, November 1964, 1.
[60]Ibid.
[61]*A New Organizational System for State-Level Educational Administration*, Submitted by Arthur D. Little, Inc., State Department of Education, 1967, 5-6.
[62]Ibid.
[63]Ibid. 54-57.
[64]Ibid. 64.
[65]Ibid.
[66] The Amendment failed by a margin of 2,606,748 "for" to 3,462,301 "against."
[67] The Commission's chair, Judge Bruce Sumner, Assemblyman Joe Gonsalves, and Senator Richard Dolwig, as well as Speaker of the Assembly Jesse M. Unruh, Lieutenant Governor Robert Finch, and Senate President Pro Tempore Hugh Burns supported the idea. Senators John Stull and H.L. Richardson and Assemblyman Robert Burke opposed it.
[68]*A History of the California State Department of Education, 1900-1967,* 54.
[69]*A Brief Review of the History of Constitutional and Statutory Provisions Regarding the State Board of Education and the Superintendent of Public Instruction*, 16-17.
[70] Chapter 1412 of 1970. Following adoption of [the 1970] amendment, Article IX, Sections 7 and 7.5 of the Constitution read as follows:

> Section 7. The Legislature shall provide for the appointment or election of the State Board of Education and a board of education for each county.
>
> Section 7.5. The State Board of Education shall adopt textbooks for use in grades one through eight, throughout the State, to be furnished without cost as provided by statute.

[71]*A Brief Review of the History of Constitutional and Statutory Provisions Regarding the State Board of Education and the Superintendent of Public Instruction*, 18.

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[72]This came about with the adoption of AB 2166 (Chapter 1163/83) by Assemblyman Tom Bane. While the original legislation provided for a sunset of the law in 1987, AB 2539 (Chapter 395/1985), also by Mr. Bane, was enacted in 1985 that removed the sunset clause.

[73] Superintendent Honig changed his registration from Democrat to Decline-to-State prior to his running for office.

[74]California. Milton Marks Commission on California State Government Organization and Economy ("Little Hoover Commission"). *K-12 Education in California: A Look at Some Policy Issues*, February 1990, 1.

[75] Ibid.. 35-36.

[76] Ibid., 71.

[77] Executive Order W-1-91. Governor Pete Wilson, 1991.

[78] John C. Bollens and G. Robert Williams, *In a Plain Brown Wrapper*, 150-151.

[79] SB 479 (Morgan) in 1991, SB 266 (Morgan) in 1993, SB1710 (Bergeson) in 1994, and AB 621 (Brulte) in 1995 each attempted to create a Secretary for Child Development and Education in statute.

[80]Senate Bill 856 (Dills). Introduced by Senator Ralph Dills in the 1993-94 legislative session.

[81] In his veto message, Governor Wilson wrote that the bill "would restrict governors' ability to shape education policy. To some extent, all governors are elected on the basis of public policy objectives and priorities they outline. The gubernatorially appointed State Board of Education is a very important way that governors can have an avenue into public policy . . . To deny the chief executive of the state the ability to articulate policy objectives in matters of education would be shortsighted and unreasonable."

[82] *Recommendations of the California Constitution Revision Commission to the Legislature and the Governor*, 45, August 1996.

[83] Ibid.

[84] California, Legislative Analyst's Office (LAO), . *A K –12 Master Plan*, p.16, (Sacramento: LAO, May 1999.

[85] *Recommendations of the California Constitution Revision Commission to the Legislature and the Governor*, 47-49.

[86] Education Code § 33051 (a).

[87] Ibid. 56.

[88] D. W. Burnes, et al., *State Governance of Education: 1983*, Education Commission of the States.

[89] Ibid., 6.

[90] *Update to State Education Governance Structures*, Education Commission of the States, 1999 (Appendix B).

[91] McCarthy, Martha et al., *State Education Governance Structures,* Education Commission of the States,.24.

[92] Ibid.

[93] Ibid.

[94] Ibid. 11.

[95] Adapted from D. K. Cohen, *State Boards in an Era of Reform*,.60-64.

[96] *State Education Governance Structures,* 12.

[97] Ibid., 19.

[98] Ibid., 22.

[99] *State Education Governance Structures,* 19-21.

[100] *State Education Governance Structures,* 32.

[101] Ibid.

[102] One example is the Academic Mentoring Program—a $10 million grant program for public schools.

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